

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CLAUDIO R. CASTANEDA,

Petitioner,

v.

No. 21-cv-474 WJ-KRS

DWAYNE SANTISTEVAN and
ATTORNEY GENERAL FOR
THE STATE OF NEW MEXICO,

Respondents.

ORDER PERMITTING SUPPLEMENTAL RESPONSE

This matter is before the Court on Petitioner's show-cause response addressing the timeliness of his 28 U.S.C. § 2254 claims. In the response, Petitioner generally alleges he could not file a petition within the one-year limitation based on property transfers, lost paperwork, and illness. *See* Doc. 4 at 3. The Court discerns he seeks equitable tolling based on these circumstances. Petitioner alleges he could supply records but would need more time. While records may not be necessary at this stage, the allegations must show Petitioner "diligently pursue[d] his claims and ... that the failure to timely file was caused by extraordinary circumstances beyond his control." *Marsh v. Soares*, 223 F.3d 1217, 1220 (10th Cir. 2000). Petitioner must provide "specificity regarding the alleged lack of access and the steps he took to diligently pursue his federal" petition. *Miller v. Marr*, 141 F.3d 976, 978 (10th Cir. 1998). The Court will allow Petitioner to file an optional supplement on equitable tolling within thirty (30) days of entry of this Order. If Petitioner declines to timely comply, the Court will rely on the original show-cause response (Doc. 4).

IT IS ORDERED that Petitioner may file a supplemental response addressing equitable tolling within thirty (30) days of entry of this Order.

A handwritten signature in black ink, reading "Kevin Sweazee". The signature is written in a cursive style with a large initial "K".

UNITED STATES MAGISTRATE JUDGE